

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

YEHUDA HERSKOVIC,

*Plaintiff,*

*-against-*

VERIZON WIRELESS,

*Defendant.*

Case No.: 1:2019-cv-03372

**DEFENDANT CELLCO  
PARTNERSHIP, *ERRONEOUSLY  
SUED AS VERIZON WIRELESS'S  
OPPOSITION TO REQUEST FOR  
RECONSIDERATION***

Compelled to Arb.: March 6, 2020

HOWARD A. FRIED, Esq., an attorney licensed to practice law before the courts of the State of New York, and admitted to practice in this District, hereby affirms the following to be true under the penalty of perjury pursuant to CPLR § 2106:

1. I am a Partner with McGivney, Kluger, Clark & Intoccia, P.C., attorneys for the Defendant, CELLCO PARTNERSHIP, *erroneously sued as* VERIZON WIRELESS (hereinafter “Defendant” or “VERIZON”). I submit this Affirmation in opposition to what is best described as a “request for reconsideration,” by the Plaintiff Yehuda Herskovic (“Plaintiff”), dated September 22, 2020..

2. Specifically, on September 22, 2020, Plaintiff filed an “update” regarding arbitration presented as a belated request that the Court reconsider its March 6, 2020, order compelling arbitration (Doc. No. 33). There is no legal or factual basis for the Court to reconsider its prior order.

3. On January 23, 2020, after a full briefing, multiple supplemental filings and a hearing, Magistrate Judge Robert M. Levy issued a seven-page Report and Recommendation (Doc. No. 25) that the matter be compelled to arbitration based on the parties written agreement to arbitrate. Plaintiff opposed the Report and Recommendation, and after another round of briefing, the Court adopted the Report and Recommendation on March 6, 2020 (Doc. No. 13).

4. Seven months later, Plaintiff has not yet filed a demand for arbitration, and now purports to bring an untimely motion for reconsideration under the guise of a status update. *See* E.D.N.Y. Local Rule 6.3. In the purported motion, Plaintiff has reiterated the same arguments rejected by the Court and Magistrate in compelling this case to arbitration.

5. Defendant Cellco Partnership d/b/a Verizon Wireless, *erroneously sued as* “Verizon Wireless” (“Defendant”) respectfully requests that the Court decline to entertain Plaintiff’s motion for reconsideration. If the Court decides to entertain the motion, Defendant respectfully requests that the Court set a briefing schedule to provide Defendant a full opportunity to address Plaintiff’s contentions.

Dated: New York, New York  
October 7, 2020

Respectfully submitted,



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Howard A. Fried (HF2114)  
McGIVNEY, KLUGER, CLARK &  
INTOCCIA, P.C.

*Attorneys for Defendant*

**CELLCO PARTNERSHIP d/b/a Verizon Wireless,  
*erroneously sued as* “Verizon Wireless”**

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TO:

**YEHUDA HERSKOVIC**

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